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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,820	07/21/2003	John H. Rallis	P3179	7373
30143	7590	04/19/2006	EXAMINER	
TODD N. HATHAWAY 119 N. COMMERCIAL ST. #620 BELLINGHAM, WA 98225			ADAMS, GREGORY W	
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			3652	

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/624,820	<b>Applicant(s)</b> RALLIS, JOHN H.	
	<b>Examiner</b> Gregory W. Adams	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 22-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 23 is objected to because of the following informalities: Claim 23 depends from claim 21 which Applicant canceled. For examination purposes, the Examiner assumed the dependency should be to claim 16 as claim 21 was rolled into claim 16. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 recites the limitation "said loading/unloading conveyor" in line 11.

There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Weir (US 3,613,910).

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With respect to claim 1-3 & 5, Weir discloses a warehousing system comprising: feed conveyor 215, tiered storage racks 176, loading/unloading conveyor 24, traveling conveyor 120, means 121, 124 for selectively moving a traveling conveyor between: (i) locations in which a traveling conveyor is aligned with a feed conveyor (see FIG. 1 which shows clearly means 121 terminating in alignment with feed conveyor), (ii) locations in which a traveling conveyor is aligned with storage racks (C6/L17-24), and (iii) locations in which a traveling conveyor is aligned with a loading/unloading conveyor (C4/L61-69), traveling conveyor deck 120, means 129 for elevating a deck, wheeled chassis 123 and track 121.

With respect to claim 11, Weir discloses a beveled edge.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weir (US 3,613,910) in view of Hayashi (US 5,082,415). Weir discloses a traveling conveyor, and does not disclose a scissor jack. Hayashi disclose a scissor jack 9,10 to raise and lower a conveyor depending on a where adjacent conveyor 3 height. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weir's traveling conveyor to include a scissor jack, as per the teachings of

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Hayashi, such that a traveling conveyor can be vertically adjusted depending on an adjacent conveyor height.

2. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weir (US 3,613,910) in view of Tharpe (US 5,887,699). Weir does not disclose a branch portion and diverter. Tharpe discloses a feed conveyor 40 comprising a branch portion 40 which diverges from a main portion 14, means for selectively diverting pallets comprising a sweep arm 52 and means 56 for selectively extending a sweep arm 56 to identify individual articles being conveyed along a primary conveyor and sorting selected articles for distribution along secondary conveyors extending in a direction lateral to the primary conveyor. Cols. 1-2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weir's feed conveyor to include main and branch portions and a diverter, as per the teachings of Tharpe, to sort items and direct them to separate them according to the portion of feed conveyor they are designated for.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weir (US 3,613,910) in view of Tharpe (US 5,887,699) and Ringer (US 4,093,084). Weir discloses a feed conveyor but does not disclose a bypass portion with means for displacement. Ringer discloses a bypass segment 21 to connect branch portions to an unloading conveyor and means for displacing a bypass segment because interconnecting multiple incoming transport vehicles, i.e. trains, with multiple outgoing transport vehicles minimizes loading/unloading time because loads are routed directly to without intermediate storage, unless said intermediate storage is necessary. Cols. 1-2.

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Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Weir's feed conveyor to include a bypass portion with means for displacement, as per the teachings of Ringer, such that loading/unloading time is minimized because loads are sent directly from an inbound vehicle to an outbound vehicle without intermediate steps.

4. Claims 10 & 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weir (US 3,613,910) in view of Tharpe (US 5,887,699) and Thornton (US 5,054,987).

With respect to claim 10, Weir discloses a dock member 25 means 26 for extending a dock member within a vehicle, and means for selectively transferring pallets from loading/unloading conveyor 24 to a dock member 25, and does not disclose means for selectively restraining a pallet. Thornton discloses means 191 for selectively restraining a pallet to facilitate removal of a dock member 3 from underneath a freight load inside a truck, such that a restraint means 191 engages rear faces of a load in a truck. Cols. 9-10. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weir's dock member to include means for restraining, as per the teachings of Thornton, such that during dock member removal a load remains in a truck.

With respect to claim 14, Weir discloses means 24a for selectively transferring a pallet from a dock member to a loading/unloading conveyor.

5. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weir (US 3,613,910) in view of Tharpe (US 5,887,699), Thornton (US 5,054,987) and Barski (US 3,042,230). Weir does not disclose means for selectively transferring pallets

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from loading/unloading conveyor to a dock member. Barski discloses a push plate 23 and means 20 for extending a push plate for shifting stacks of cases from one conveyor to a second conveyor minimizing canting of stacks. Col. 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weir's system to include a push plate and means for extending, as per the teachings of Barski, such that stacks of cases may be transferred from one conveyor to a second without a need for canting of stacks.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weir (US 3,613,910) in view of Tharpe (US 5,887,699), Thornton (US 5,054,987) and Winski (US 5,562,403). Weir does not disclose an unload paddle. Winski discloses an unloading paddle 34, means for selectively moving a paddle 36 and means for translating an unloading paddle (col. 7, ln. 63 - col. 8, ln. 20) such that when mounted to a vehicle which repositions shippable goods selectively pushing objects from one conveyor to a second provides for different production steps to take place. Cols. 1-2. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Weir's dock member to include a paddle and means for selectively moving a paddle, as per the teachings of Winski, such that goods can be moved from one conveyor to a second.

7. Claims 16-18 & 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thornton (US 5,054,987) (previously cited) in view of Holz (US 6,056,497).

With respect to claim 16, Thornton discloses an automated cargo loading/unloading system comprising a dock member 1, means 13 for extending a dock

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member, means 191, 681 for selectively restraining a load of palletized cargo within a vehicle interior, and does not include an unloading paddle. Holz discloses an automated cargo loading/unloading system comprising means for selectively transferring a cargo from a dock member to a loading/unloading conveyor comprising an unloading paddle 40, means 28, 32 for selectively moving a paddle from a retracted position to a deployed position, and means 28, 32 for translating an unloading paddle in a deployed position from an outer end to proximate an inner end. Holz teaches an unloading system that unloads a full load of cargo to eliminate manual unloading. C1/L30-50. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Thornton's system to include unloading paddle, means for selectively moving a paddle from a retracted position to a deployed position, and means for translating an unloading paddle in a deployed position from an outer end to proximate an inner end, as per the teachings of Holz, to eliminate manual unloading.

With respect to claim 17, Thornton discloses a beveled leading edge 419.

With respect to claim 18, Thornton discloses means (C11/L46-50) for selectively transferring palletized cargo from a loading/unloading conveyor to a dock member.

With respect to claim 22, Thornton discloses a thin, rigid plate member 41.

With respect to claim 23, Thornton discloses drive means 5 for translating a plate member into an out of a vehicle.

With respect to claim 24, Thornton discloses rollers 71, 75.

With respect to claim 25, Thornton discloses rollers spaced distances from inner and outer ends.



With respect to claim 26, Thornton discloses ball bearings (C6/L25-50).

8. Claim 19 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Thornton (US 5,054,987) in view of Holz (US 6,056,497) and Barski (US 3,042,230). Thornton does not disclose a push plate or means for extending a push plate. Barski discloses a push plate 23 and means 20 for extending a push plate for shifting stacks of cases from one conveyor to a second conveyor minimizing canting of stacks. Col. 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Thornton's system to include a push plate and means for extending a push plate, as per the teachings of Barski, such that stacks of cases may be transferred from one conveyor to a second without a need for canting of stacks.

### ***Response to Arguments***

Applicant's arguments filed on March 9, 2006 with respect to claims 1-15 have been fully considered but they are not persuasive. Amended claim 16 is addressed on the merits above.

With respect to the claim objection, Applicant argues that reciting locations that a means can move does not require Markush claim structure. This is persuasive. However, as noted above the cited prior art disclose means that will locate the traveling conveyor between three locations, feed conveyor alignment, rack alignment, and loading/unload conveyor alignment.

With respect to claim 1, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that a conveyor is "a horizontal, inclined, or vertical device

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for moving or transporting bulk material, packages or objects in a path predetermined by the design of the device, and having points of loading and discharge, fixed or selective.”

(Applicant's remarks, page 10, L18) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). However, Weir's conveyor 120 is a horizontal device that transports objects from shelves 176 to conveyor 23, 24, traveling via longitudinally and vertically.

In response to applicant's argument that a feed conveyor brings palletized cargo to or from a system, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, Weir's conveyor 215 is certainly capable of bring cargo to or from a system because it's a conveyor.

With respect to claims 4, 6-10, 12-16, Applicant's arguments that Hayashi, Tharpe, Ringer, Thornton, Barski and Winski do not disclose a traveling conveyor are irrelevant as Weir discloses a traveling conveyor 120.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GWA



JAMES W. KEENAN  
PRIMARY EXAMINER